

Message Text

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46

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C O N F I D E N T I A L KUWAIT 1248

FROM THE AMBASSADOR FOR UNDER SECRETARY ROBINSON

E.O. 11652: GDS

TAGS: PFOR, EWWT, ENRG KU US

SUBJECT: GULF OIL COMPANY CHARTER OF KUWAIT OIL TANKERS COMPANY
VESSEL

SUMMARY: POTENTIALLY SERIOUS COMPLICATION HAS ARISEN IN CONNECTION WITH PLANS BY GULF OIL COMPANY TO CHARTER KUWAIT OIL TANKERS COMPANY (KOTC) TANKER. PROBLEM IS ROOTED IN APPLICATION OF SHIPPING ACT OF 1916 (AS AMENDED) UNDER NATIONAL EMERGENCY OF DECEMBER 16, 1950. I AM CONCERNED THAT IF APPLICATION OF US LAW IS PRESSED WITH NO REGARD FOR CURRENT CONDITIONS MATTER COULD EMBARRASS US POLITICALLY HERE. I THEREFORE ASK YOU TO GIVE MATTER YOUR PERSONAL ATTENTION. END SUMMARY.

1. BACKGROUND: IN 1968 PARTLY IN EFFORT BROADEN ITS OVERALL RELATIONS WITH KUWAIT, GULF OIL COMPANY, THEN 50 PERCENT OWNER OF KUWAIT OIL COMPANY, SIGNED LETTER OF INTENT WITH KOT TO CHARTER FOR 20 YEARS ONE OF ITS TANKERS. EVENTUALLY A TANKER BUILT AT THE ASTANO SHIPYARD IN SPAIN WAS IDENTIFIED AS THE VESSEL. PRESENTLY GULF IS THE LEGAL OWNER OF THE SHIP, REFERRED TO AS HULL 231 WHILE BEING BUILT AND NOW NAMED "AL-ANDALUS". PRESENTLY THE 360,000 DWT VESSEL IS UNDERGOING SEA TRIALS. IT IS SCHEDULED TO BE TURNED OVER TO KOTC LATER THIS SPRING IN KUWAIT. AT THAT
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TIME KOTC WILL BECOME ITS OWNER. UNDER A SPECIAL AGREEMENT THE

VESSEL ALREADY IS FLYING THE KUWAITI FLAG. KOTC AND GULF JOINTLY FINANCED THE BUILDING OF THE \$50 MILLION SHIP.

3. GULF AND MARAD HAVE BEEN DISCUSSING THE SALE FOR SOME TIME. IN A DRAFT LETTER DATED MARCH 12, 1975 MARAD HAS INDICATED THAT IT WILL APPROVE THE SALE PROVIDED THAT SEVERAL CONDITIONS ARE MET. THESE INCLUDE PRIOR CONSENT BY MARAD BEFORE RESALE, TRANSFER TO NON-US, NON-KUWAITI CITIZENS, AGENCIES, ETC., AND SEVERAL OTHER CONSTRAINTS. THESE INCLUDE THE FOLLOWING PROHIBITION: QUOTE:

(C)

THEVESSEL SHALL NOT BE CHARTERED TO ALIENS FOR THE CARRIAGE OF CARGOES OF ANY KIND TO OR FROM THE SOVIET UNION, LATVIA, LITHUANIA, ESTONIA, CZECHOSLOVAKIA, HUNGARY, BULGARIA, ALBANIA, NORTH KOREA, THE SOVIET ZONE OF GERMANY, MANCHURIA, COMMUNIST CHINA, THE COMMUNIST CONTROLLED AREA OF VIET-NAM, CUBA OR SOUTHERN RODESIA, WITHOUT THE PRIOR WRITTEN APPROVAL OF THE MARITIME ADMINISTRATION. UNQUOTE.

4. KOTC, AND OTHERS HERE, CONSIDER THIS TO BE AN UNACCEPTABLE EXTENSION OF US JURISDICTION. TWO PARTIES ENTERING NORMAL COMMERCIAL CONTRACT IN GOOD FAITH TRANSFERING OWNERSHIP IN A VESSEL BUILT OUTSIDE US FOR USE IN NON-US TRADE. IT IS EXPECTED TO BE USED MAINLY BETWEEN KUWAIT AND BANTRY BAY, IRELAND AND OKINAWA.

5. GIVEN NATURE AND LOCAL IMPORTANCE OF TRANSACTION, IT IS EXPECTED TO BE PASSED TO CROWN PRINCE/PRIME MINISTER FOR APPROVAL BEFORE FINAL CONSUMMATION. ALL HERE AGREE HE WOULD REFUSE AUTHORIZE SIGNING MARAD TERMS. MOREOVER, INSISTENCE ON TERMS OF CONTRACT NOTED PARA 3 BOUND TO KNOCK PROPS OUT FROM UNDER OUR EFFORTS TO GET ARABS TO DOWNPLAY BOYCOTT OF ISRAEL.

6. SEEMS TO US HERE UNREASONABLE THAT SHIPPING ACT OF 1916 (AS AMENDED BY NATIONAL EMERGENCY OF 1950) BE APPLIED IN PRESENT CASE. PROBLEM IS WHETHER THERE ANY FLEXIBILITY TO LAW. FOR EXAMPLE, CAN SECRETARY OF STATE OR OF COMMERCE OR PRESIDENT WAIVE PROVISIONS? CAN MARAD MAKE A PRIORI GENERAL WAIVER? CAN A ONE TIME EXCEPTION BE MADE? IT IS MY JUDGEMENT THAT GULF/KOTC SALE AND CHARTER IS A SINCERE COMMERCIAL ARRANGEMENT MADE IN GOOD FAITH BY BOTH PARTIES. WE CAN ASSUME AMERICAN COMPANY INVOLVED CONSIDERS SALE/CHARTER TO BE IN ITS BEST INTERESTS. FURTHERMORE, CONFIDENTIAL

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GIVEN NATURE AND HISTORY OF THIS PARTICULAR 50 MILLION DOLLAR DEAL, ESPECIALLY IN LARGER CONTEXT US MIDDLE EAST POLICIES, I JUDGE THAT AUTOMATIC APPLICATION OF US LAW IN THIS INSTANCE COULD HAVE SERIOUS DETRIMENTAL IMPACT FOR US HERE.

7. PLEASE ADVISE WHAT CAN BE DONE SOONEST.
STOLTZFUS

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